

PART 9401—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159; 3 CFR, 1898 Comp., p.215, as modified by E.O. 12731, 55 FR 42547; 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502 and 2635.803.

SOURCE: 77 FR 25019, Apr. 27, 2012, unless otherwise noted.

§ 9401.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635 (OGE Standards) and prescribe the standards of ethical conduct applicable to employees of the Bureau of Consumer Financial Protection (Bureau).

(b) *Other regulations, guidance and procedures.* Employees are required to comply with the OGE Standards and the CFPB Ethics Regulations, as well as with guidance and procedures issued by the Bureau pursuant to 5 CFR 2635.105(c). Employees also are subject to all other government-wide regulations concerning executive branch ethics including without limitation, financial disclosure regulations contained in

5 CFR part 2634, regulations concerning financial interests contained in 5 CFR part 2640, post-employment conflict of interest restrictions contained in 5 CFR part 2641, outside earned income limitations and employment and affiliation restrictions applicable to certain noncareer employees contained in 5 CFR part 2636, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735.

§ 9401.102 Definitions.

For purposes of this part:

CFPB Ethics Regulations means the supplemental ethics standards set forth in this part.

Control means the possession, direct or indirect, of the power or authority to manage, direct, or oversee.

Credit has the meaning set forth in 12 U.S.C. 5481(7) and as further defined in regulations promulgated by the Bureau to implement that statute. A person may have credit without any outstanding balance owed.

Debt or equity interest includes without limitation, secured and unsecured bonds, debentures, notes, securitized assets, commercial papers, and preferred and common stock. The term encompasses both current and contingent ownership interests; a beneficial or legal interest derived from a trust; a right to acquire or dispose of any long or short position in debt or equity interests; interests convertible into debt or equity interests; and options, rights, warrants, puts, calls, straddles, derivatives, and other similar interests. It does not include deposits; credit union shares; a future interest created by someone other than the employee or the employee's spouse or dependent child; or a right as a beneficiary of an estate that has not been settled.

Dependent child has the meaning set forth in 5 CFR 2634.105(d). It includes an employee's son, daughter, stepson, or stepdaughter if:

(1) Unmarried, under the age of 21, and living in the employee's household; or

(2) Claimed as a "dependent" on the employee's income tax return.

Designated Agency Ethics Official (DAEO) means the official within the Bureau that the Director has appointed

to coordinate and manage the ethics program at the Bureau, under 5 CFR 2638.202(b). For purposes of this part, the term “DAEO” also includes the Alternate DAEO appointed under 5 CFR 2638.202(b), and a designee of the DAEO or Alternate DAEO unless a particular provision says an authority is reserved to the DAEO.

Director means the Director of the Bureau.

Domestic partner means a person with whom a Bureau employee:

(1) Has a close and committed personal relationship and both parties are at least 18 years of age, are each other’s sole domestic partner, and intend to remain in the relationship indefinitely, and neither is married to, in a civil union with, or partnered with any other spouse or domestic partner;

(2) Is not related by blood in a manner that would bar marriage under the laws of the jurisdiction in which the employee resides;

(3) Is in a financially interdependent relationship in which both agree to be responsible for each other’s common welfare and share in financial obligations; and

(4) Has shared for at least six months the same regular and permanent residence in a committed relationship and both parties intend to do so indefinitely, or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle.

Employee means an employee of the Bureau, including a special Government employee.

Entity supervised by the Bureau means a person that is subject to the Bureau’s supervision authority pursuant to 12 U.S.C. 5514(a)(1) or 5515(a) and in regulations promulgated thereunder, as identified on a list to be maintained by CFPB.

Indebted or indebtedness means a legal obligation under which an individual or borrower received money or assets on credit, and currently owes payment.

Indebted to an entity means an obligation to make payments to an entity as a result of an indebtedness, whether originally made with that entity or with another entity. This includes without limitation, a servicer on a mortgage to whom payments are made.

OGE Standards mean the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

Participate means personal and substantial participation and has the meaning set forth in 5 CFR 2635.402(b)(4). An employee participates when, for example, he or she makes a decision, gives approval or disapproval, renders advice, provides a recommendation, conducts an investigation or examination, or takes an official action in a particular matter, and such involvement is of significance to the matter. It requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.

Particular matter has the meaning set forth in 5 CFR 2635.402(b)(3). The term includes a matter that involves deliberation, decision, or action and is focused upon the interests of specific persons or a discrete and identifiable class of persons. It may include governmental action such as legislation, regulations, or policy-making that is narrowly focused on the interest of a discrete and identifiable class of persons.

Particular matter involving specific parties has the meaning set forth in 5 CFR 2641.201(h). Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties. The term includes without limitation, a contract, audit, enforcement action, examination, investigation, litigation proceeding, or request for a ruling.

Person has the same meaning set forth in 5 CFR 2635.102(k). It includes without limitation, an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution.

Special Government employee has the meaning set forth in 5 CFR 2635.102(l).

Spouse means an employee’s husband or wife by lawful marriage, but does not include an employee’s spouse if:

(1) The employee and the employee’s spouse are legally separated;

(2) The employee and the employee’s spouse live apart;

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(3) There is an intention to end the marriage or separate permanently; and

(4) The employee has no control over the legally separated spouse's debt or equity interests.

§ 9401.103 Prior approval for outside employment.

(a) *General requirement.* Before engaging in outside employment, an employee must obtain written approval from the employee's supervisor and the concurrence of the DAEO, except to the extent that the Bureau has issued an instruction or internal directive pursuant to paragraph (e) of this section exempting an activity or class of activities from this requirement.

(b) *Definition of employment.* For purposes of this section, "employment" means any form of non-Federal employment, business relationship, or activity involving the provision of personal services by the employee, regardless of whether the services are compensated. It includes without limitation, personal services as an officer, director, employee, agent, advisor, attorney, consultant, contractor, general partner, trustee, teacher, speaker, or writer.

NOTE TO § 9401.103(b): Both 18 U.S.C. 203(d) and 205(e) require special approval for certain representational activities in claims against and other matters affecting the interests of the Government. Thus, an employee who wishes to act as agent or attorney for or otherwise represent his or her parents, spouse, child, or a person for whom or for an estate for which he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters as described in those statutes shall obtain the approval of the Government official responsible for the employee's appointment in addition to the regulatory approval required in this section.

(c) *Standard for approval.* Approval will be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute, the OGE Standards, or the CFPB Ethics Regulations in this part.

(d) *Renewed request for approval.* Upon a significant change in either the nature, scope, or duties of the employee's outside employment or in the employee's official Bureau position, the em-

ployee shall submit a new request for approval.

(e) *DAEO responsibilities.* The DAEO may issue instructions or internal directives governing the submission of requests for approval of outside employment and designating appropriate officials to act on such requests. The instructions or internal directives may exempt categories of employment from the prior approval requirement of this section based on a determination that employment within those categories generally would be approved and is not likely to involve prohibited conduct or create an appearance of lack of impartiality.

§ 9401.104 Additional rules concerning outside employment for covered employees.

(a) *Prohibited outside employment.* A covered employee shall not engage in compensated outside employment for an entity supervised by the Bureau or for an officer, director, or employee of such entity.

(b) *Definition of employment.* For purposes of this section, "employment" has the same meaning as set forth in § 9401.103(b) of this part.

(c) *Definition of covered employee.* For purposes of this section, "covered employee" means:

(1) An employee serving in an examiner position;

(2) An employee serving in an attorney position;

(3) An employee in the Office of Research, serving as a section chief at CFPB pay band 71 or above or as a senior economist in the Compliance Analysis Section;

(4) An employee serving in an investigator, paralegal, or financial analyst position in the Office of Enforcement;

(5) An employee required to file a Public Financial Disclosure Report (OGE Form 278) under 5 CFR part 2634; or

(6) Any other Bureau employee specified in a Bureau order or directive whose duties and responsibilities, as determined by the DAEO, require application of the prohibition on outside employment contained in this section to ensure public confidence that the Bureau's programs are conducted impartially and objectively.